

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 CAROLYN M. STRASBURG,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

12 Defendant.

Case No. C17-1025 RBL

**ORDER AFFIRMING THE
COMMISSIONER AND
DISMISSING THE CASE**

13 Carolyn M. Strasbourg appeals the ALJ's decision finding her not disabled. She contends
14 the ALJ misevaluated the medical evidence and her testimony and that the Court should remand
15 the matter for an award of benefits or for further proceedings. For the reasons below, the Court
16 **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

17 **THE ALJ'S DECISION**

18 Utilizing the five-step disability evaluation process,¹ the ALJ found:

19 **Step one:** Ms. Strasbourg has not engaged in substantial gainful activity since March 31,
20 2013.

21 **Step two:** Post-traumatic Stress Disorder (PTSD), depressive disorder, anxiety disorder,
22 and alcohol dependence are severe impairments.

23

¹ 20 C.F.R. §§ 404.1520, 416.920.

1 Ms. Strasbourg also contends the ALJ erroneously failed to account for all limitations
2 assessed by Sylvia Thorpe, Ph.D., Douglas Uhl, Psy.D.⁴, and Anselm Parlatore, M.D. Dkt. 13 at
3 5. The ALJ must give clear and convincing reasons to reject the opinions of these doctors
4 because he did not find they were contradicted by the opinions of another doctor. *Lester v.*
5 *Chater*, 81 F.3d 821, 830 (9th Cir. 1996). The Court rejects the Commissioner’s claim a lesser
6 standard applies. Dkt. 15 at 2, n. 2. *See Garrison v. Colvin*, 759 F.3d 995, 1015 n. 18 (9th Cir.
7 2014) (rejecting Commissioner’s argument the Court should apply a standard lower than clear
8 and convincing in reviewing ALJ’s evaluation of claimant’s testimony.)

9 ***1. Dr. Thorpe***

10 Ms. Strasbourg argues the ALJ accorded great weight to Dr. Thorpe’s opinions but
11 erroneously failed to account for her opinion that Ms. Strasbourg is markedly limited in her
12 ability to “complete a normal workweek without symptoms.” Dkt. 13 at 5. The argument is
13 unpersuasive. Dr. Thorpe did not opine Ms. Strasbourg was permanently unable to complete a
14 normal workweek. Is she did, Ms. Strasbourg is right the ALJ omitted a significant limitation.
15 But the doctor did not. Instead, as the ALJ correctly notes, the doctor indicated “the claimant’s
16 current impairments were primarily a result of substance use in the previous 60 days although
17 they would persist at a much lower level without it, and that the claimant would be expected to
18 work after six months of treatment.” Tr. 34 (citing Tr. 332). The ALJ accepted this opinion in
19 adopting Dr. Thorpe’s assessment and found with treatment Ms. Strasbourg would be able to
20 work in less than 12 months. *Id.* As the ALJ’s finding is supported by a plain reading of the
21 doctor’s opinion, the Court affirms the ALJ’s treatment of Dr. Thorpe’s opinions.

22
23 _____
⁴ Appears as Dr. “Uhi” in the ALJ’s decision. Tr. 35

1 **2. *Drs. Uhl and Parlatore***

2 The ALJ rejected the opinions of Drs. Uhl and Parlatore that Ms. Strasbourg is severely
3 limited in her ability to perform within a schedule, maintain regular attendance, be punctual
4 without special supervision, learn new tasks and adapt to workplace changes, ask simple
5 questions, communicated and complete a normal workweek. Tr. 35-36. The ALJ found these
6 limitations are inconsistent with Ms. Strasbourg's significant work-related activity, positive
7 social interactions, activities of daily living and unremarkable mental status examination
8 findings. Tr. 36.

9 The Commissioner correctly notes Ms. Strasbourg fails to challenge the reasons the ALJ
10 gave to reject the doctors' opinions. Ms. Strasbourg bears the burden the ALJ harmfully erred.
11 She fails to meet that burden by failing to present any argument in support of her claims. *See*
12 *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012). Additionally, claims that are unsupported
13 by explanation or authority may be deemed waived. *See Avila v. Astrue*, No. C07-1331, 2008
14 WL 4104300 (E.D. Cal. Sept. 2, 2008) at * 2 (unpublished opinion) (citing *Northwest*
15 *Acceptance Corp. v. Lynnwood Equip., Inc.*, 841 F.2d 918, 923-24 (9th Cir. 1996) (party who
16 presents no explanation in support of claim of error waives issue); *Independent Towers of*
17 *Washington v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003)).

18 In any event, the record establishes the ALJ gave at least one valid reason to discount
19 the doctors' opinions. The ALJ found Ms. Strasbourg work history shows she is less limited than
20 the doctors found. In specific, the ALJ noted Ms. Strasbourg's employer, regarding a job she left
21 in 2014, indicated Ms. Strasbourg "reported for work as scheduled, no problem completing her
22 duties as a bookkeeper or finding parts, followed instructions, worked well with supervision and
23 on her own, and got along well with coworkers and her supervisor." Tr. 33. The Court cannot say

1 the ALJ unreasonably found this evidence contradicts the opinions of the doctors and
2 accordingly affirms the ALJ's assessment of Drs. Uhl's and Parlatore's opinions.

3 **B. The ALJ's Evaluation of Ms. Strasbourg's Testimony**

4 In evaluating a claimant's testimony, the ALJ must first determine whether the claimant's
5 medically determinable impairments could reasonably be expected to produce some of the
6 alleged symptoms. *See* 20 C.F.R. § 404.1529. If so, the ALJ next evaluates the intensity,
7 persistence, and limiting effects of the symptoms to determine the extent to which they limit the
8 claimant's capacity for work. *See Id.* If there is no evidence of malingering, the ALJ may reject
9 the claimant's testimony about the severity of the symptoms only by making specific findings
10 stating clear and convincing reasons for doing so. *Smolen v. Chater*, 80 F.3d 1273, 1283-84 (9th
11 Cir. 1996). The ALJ utilized the above process in evaluating Ms. Strasbourg's testimony. Tr. 30.

12 The ALJ may consider "ordinary techniques of credibility evaluation" including the
13 claimant's reputation for truthfulness, inconsistencies in her testimony or between her testimony
14 and conduct, her daily activities, work record, and testimony from physicians and third parties
15 regarding the nature, severity, and effect of the symptoms of which claimant complains. *Smolen*,
16 80 F.3d at 1284. Applying these techniques the ALJ gave at least one valid reason to discount
17 Ms. Strasbourg's testimony. The ALJ found Ms. Strasbourg made inconsistent statements about
18 her ability to work. Tr. 32. In July 2014, she reported to her medical provider she last worked in
19 2007. *Id.* (citing Tr. 381). In March 2014, she reported she last worked in January 2014. *Id.*
20 (citing Tr. 413).

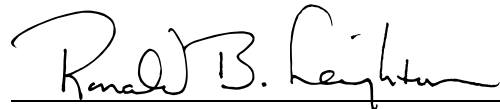
21 The ALJ also found Ms. Strasbourg's claim she cannot remember or process words is
22 inconsistent with the medical record that shows she is cognitively intact. Tr. 32. In fact. Dr.
23 Parlatore, upon whom she places great weight, opined Ms. Strasbourg has "the ability to reason

1 and understand. Her memory, concentration, pace, persistence are organically/cognitively
2 intact.” Tr. 336. The ALJ gave other reasons to discount Ms. Strasbourg’s testimony. The Court,
3 however, need not determine whether the ALJ erred in these respects because any error would
4 not negate the validity of the overall credibility determination and thus would be harmless. *See*
5 *Carmickle v. Comm’r, Soc. Sec. Admin.*, 533 F.3d 1155, 1162 (9th Cir. 2008) (including an
6 erroneous reason among other reasons to discount a claimant’s credibility does not negate the
7 validity of the overall credibility determination and is at most harmless error where an ALJ
8 provides other reasons that are supported by substantial evidence).

9 **CONCLUSION**

10 For the foregoing reasons, the Court **AFFIRMS** the Commissioner’s final decision and
11 **DISMISSES** the case with prejudice.

12 DATED this 27th day of February, 2018.

13
14 

15 Ronald B. Leighton
16 United States District Judge
17
18
19
20
21
22
23